

REMARKS

Claims 1-3, 8-10, 18-20 and 38-49 are pending.

Acknowledgements

Applicant acknowledges and appreciates that the restriction requirement mailed on 10/27/05 has been withdrawn.

Applicant acknowledges and appreciates that the objection to the specification for failing to comply with the sequence rules set forth in 37 C.F.R. 1.821 through 1.825 is withdrawn in view of new sequence listings that was filed on 1/18/05.

Applicant acknowledges and appreciates that the rejection of claims 1-3, 8-10, 18-20, and 38-41 under 35 U.S.C. 112, first paragraph for lack of written description has been withdrawn in view of the amendment removing the negative limitation.

Applicant acknowledges and appreciates that the rejection of claims 1-3, 8-10, 18-20, and 38-49 under 35 U.S.C. 112, first paragraph for lack of enablement has been withdrawn in view of the amendments made in the previous response and further in view of the previously filed declaration filed by Dr. Gail Clinton.

Applicant acknowledges the Examiner's new ground of rejection of claims 8-10, 18, 40, 41 and 46-48, under 35 U.S.C. § 112 ¶1, as allegedly lacking sufficient *written description* in view of alleged *new matter*, based on the recitations in the subject claims concerning the number of glycosylation sites present. Applicants have respectfully traversed this rejection and have provided explicit supportive reference in the specification to obviate this rejection.

Applicant acknowledges the Examiner's new ground of rejection of claims 1-3, 8, 10, 18, 19, 40, 42-4, 46 and 48, under 35 U.S.C. 102(a), as being allegedly anticipated by Doherty et al., (Proc. Natl. Acad. Sci. USA 96:10869-10874, September 1999; of record). Applicants have amended the claim to obviate this rejection.

Applicant acknowledges the Examiner's new ground of rejection of claims 38, 39, 45, and 49, under 35 USC §102(b), as allegedly being anticipated by Sigma Chemical Company (Sigma Chemical Company Catalog, 1989, pages 914, 918, 1171, and 1243). Applicants have amended the claim to obviate this rejection.

Applicant acknowledges the Examiner's new ground of rejection of claims 1-3, 8-10, 18-20, 40-44, 46-48, under 35 USC §102(e), as allegedly being anticipated by Doherty (U.S. 6,414,130; published Jul. 2, 2002; effective filing date Jan. 20, 1999; of record). Applicants have amended the claim to obviate this rejection.

No new matter has been added.

Rejections under 35 USC §112

Claims 1-3, 18, 40, 41, and 46-48 are rejected under 35 USC §112, first paragraph as allegedly failing to comply with the written description requirement. The Examiner alleges that the claims contain subject matter that was not described in the specification in such a way as to reasonably convey to one of skill in the relevant art that the inventors, at the time the invention was filed, had possession of the claimed invention.

Specifically, the Examiner stated that the basis of her rejection for these claims was that the recitation concerning the number of glycosylation sites introduced new matter into the specification (item 6, page 3 Office Action). The Examiner cites claims 8, 10, 18, 40, 41, 46 and 48 for lacking written description because they are drawn to polypeptides comprising "at least one N-linked glycosylation site" and the Examiner alleges that there is no support in the specification for the limitation of "at least one N-linked glycosylation site." Additionally, the Examiner has also called out claims 9 and 47 on page 3 of the Office Action, where claims 9 and 47 include the limitation of "at least three N-linked glycosylation sites."

Applicant respectfully traverses this rejection, based on the fact that there is explicit literal support for this limitation on page 6, line 13 and page 23, line 29 where the specification describes "a consensus asparagine linked glycosylation site." As recognized in the art, and including to one of ordinary skill in the art, "N-linked" and "asparagine linked" refer to the same amino acid, because "N" is the single letter abbreviation for asparagine. The specification thus teaches a single asparagine linked site at page 6, line 13 and page 23, line 29, and there is consequently support in the specification for the limitation of "at least one N-linked glycosylation site" recited in claims 8,

10, 18, 40, 41, 46 and 48. Likewise, we agree with the Examiner (page 4, fourth line of the Office Action) that there is disclosure in the specification for “at least three N-linked glycosylation sites.”

Applicant, therefore, respectfully requests withdrawal of the Examiner’s new matter rejection based on an alleged lack of written description for the number of glycosylation sites, where there is explicit literal support in the originally filed specification as cited herein, and as appreciated by the Examiner.

Rejections under 35 USC §102(a)

Claims 1-3, 8, 10, 18, 19, 40, 42-44, 46, and 48 are rejected under 35 USC §102(a), as allegedly being anticipated by Doherty (Proc. Natl. Acad. Sci., USA, 96: 10869, 1999, September; of record). The Examiner also alleged that these claims do not receive the priority benefit of the parent application, 09/234,208. Further, the Examiner stated in the last paragraph of item 7 on page 5 of the Office Action that this rejection would be overcome by amending the claims to recite “polypeptide comprising *the* amino acid sequence selected from the group consisting of...”

Applicant has adopted the Examiner’s suggested language, and all the claims which used the language “polypeptide comprising *an* amino acid sequence...” has been amended to read “polypeptide comprising *the* amino acid sequence” as suggested by the Examiner.

Additionally, to further emphasize the distinguishing features in view of Doherty, and as originally conceived, Applicant has amended the claims to clarify that the subfragments of the claimed variant SEQ ID NOS, comprise the respective variant. Support for this amendment is explicitly found in Table 1 on page 33 of the originally-filed specification (see also, for example, original claim 27 reciting “ECDIIIa variant sequence”). No new matter has been added. Such variant-containing fragments are neither anticipated by, or obvious in view of Doherty.

In view of the foregoing, Applicant has followed the Examiner’s instructions for overcoming the rejection and, as such, Applicant respectfully requests that the rejection be withdrawn.

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Rejections under 35 USC §102(b)

Claims 38, 39, 45, and 49 are rejected under 35 USC §102(b), as allegedly being anticipated by Sigma Chemical Company (Sigma Chemical Company Catalog, 1989, pages 914, 918, 1171, and 1243). In particular, the Examiner alleged that the claim language reciting “polypeptide comprising *an* amino acid sequence...” would read upon some of the di-peptide products that Sigma Chemical sells.

As explained in the previous section, Applicant has followed the Examiner’s suggestion of amending the claims to read “polypeptide comprising *the* amino acid sequence.” As such, the claims no longer read upon the di-peptide sequences. Claim 45 and 49 have been amended to include the language “polypeptide with *the* amino acid sequence...” to be consistent with the language suggested by the Examiner in the Office Action for overcoming the Section 102 rejections.

In view of the foregoing, Applicant respectfully requests that the rejection be withdrawn.

Rejections under 35 USC §102(e)

Claims 1-3, 8-10, 18-20, 40-44, 46-48 are rejected under 35 USC §102(e), as allegedly being anticipated by Doherty (U.S. 6,414,130; published Jul. 2, 2002; effective filing date Jan. 20, 1999; of record). The Examiner has indicated at the end of item 9 on page 6 of the Office Action that this rejection would be overcome by amending the claims to recite a “polypeptide comprising *the* amino acid sequence selected from the group consisting of... .”

In the interest of expediting prosecution, Applicant has followed the Examiner’s suggestion of amending the claims to change “an” to “the” in the phrase “polypeptide comprising *the* amino acid sequence.”

In view of the foregoing, Applicant has followed the Examiner’s suggestions for overcoming the rejection and, as such, Applicant respectfully requests that the rejection be withdrawn.

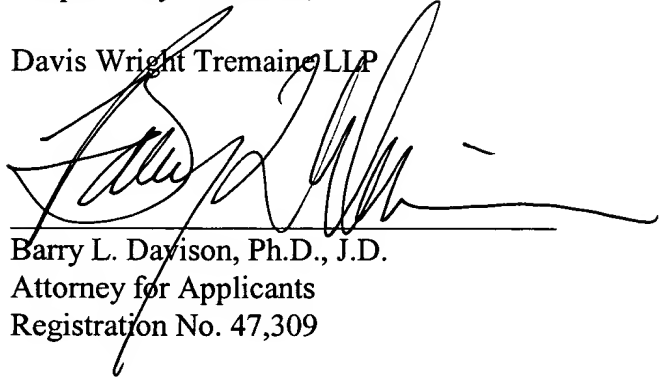
CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully requests entry of the present Amendment and allowance of all claims as provided herein above. The Examiner is

encouraged to phone Applicant's attorney, Barry L. Davison, to resolve any outstanding issues and expedite allowance of this application.

Respectfully submitted,

Davis Wright Tremaine LLP

A handwritten signature in black ink, appearing to read 'Barry L. Davison', is written over a horizontal line.

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